



# Building Societies Act 1986

## 1986 CHAPTER 53

### PART III

#### ADVANCES, LOANS AND OTHER ASSETS

##### *Other commercial assets*

#### **18 Power to invest in subsidiaries and other associated bodies**

- (1) Subject to the following provisions of this section, a building society may—
- (a) acquire and hold shares or corresponding membership rights in bodies corporate and form or take part in forming bodies corporate, and
  - (b) provide bodies corporate in which it holds shares or such rights or to which it is, for the purpose of any power under this section, linked by resolution with any of the following supporting services—
    - (i) loans of money, with or without security and whether or not at interest,
    - (ii) grants of money, whether or not repayable,
    - (iii) guarantees of the discharge of their liabilities, and
    - (iv) the use of services or property, whether or not for payment;and in this section "invest" means the exercise of any of the powers conferred by paragraph (a) and "support" means the exercise of any of the powers conferred by paragraph (b) above.
- (2) A building society may invest in or support the following bodies corporate (referred to as "qualifying bodies") but no others, that is to say—
- (a) companies or industrial and provident societies ;
  - (b) bodies formed in another member State for the purpose of carrying on in another member State businesses which consist wholly or mainly in lending money on the security of land and do not (where that is not the whole business) include lending on land in the United Kingdom (referred to as "corresponding European bodies"), and

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- (c) bodies corporate (whether or not falling within paragraph (a) or (b) above) designated as suitable for investment and support or for support for the purposes of this section by an order (referred to as "a designation order") made by the Commission with the consent of the Treasury.
- (3) A designation order may—
- (a) designate a particular body or designate descriptions of bodies corporate,
  - (b) make different provision for different descriptions of building society,
  - (c) determine, or provide for the determination under the order of, the extent to which, the purposes for which, and the conditions subject to which, investment or support is permitted, and
  - (d) make such transitional and consequential provision as the Commission considers necessary or expedient.
- (4) Subject to subsection (5) below, a building society shall not invest in or support a qualifying body so as to enable that body on its own account, in the United Kingdom, to—
- (a) lend money to members of the public on the security of land by loans corresponding to advances secured on land,
  - (b) accept deposits of money otherwise than in such circumstances that their acceptance would not constitute its business a deposit-taking business or in the course of or for the purposes of providing a service for the time being specified in Part I of Schedule 8 to this Act;
- but, subject to that, it may invest in or support a qualifying body so as to enable that body to carry on any activity which it is within the powers of the society to carry on, but, subject to subsection (5) below, no others.
- (5) In the case of a qualifying body designated, or included in a description of bodies designated, by a designation order a building society may also invest in or support it for such purposes as are permitted by or under the designation order.
- (6) Subject to subsection (7) and (8) below, a building society shall not invest in or support a qualifying body whose objects enable it—
- (a) to carry on activities which are outside the powers of the society,
  - (b) to invest in other bodies corporate, or
  - (c) to support other bodies corporate;
- but this does not imply that it is unlawful for the society to complete the performance of any contractual obligations lawfully incurred in providing a supporting service.
- (7) Subsection (6) above shall not operate so as to restrict a building society's powers under this section in relation to a corresponding European body.
- (8) Subsection (6) above shall not prevent a building society from investing in or supporting a qualifying body—
- (a) if that body is, in relation to the society, a designated body and the investment or support is made in accordance with the designation order,
  - (b) if, not being a body whose objects enable it to carry on activities outside the powers of the society, the investment or support is made or given with the consent of the Commission and subject to any conditions specified in the instrument giving the consent, or
  - (c) for a period of three months, pending the alteration of the objects of that body.

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- (9) For the purposes of any power conferred by this section a body corporate is " linked by resolution " to a building society if the board of directors of the society has passed a resolution making that power exercisable in relation to that body and the resolution is in force.
- (10) No power to invest in or support a corresponding European body is available to a building society which does not for the time being have a qualifying asset holding, but the cessation of its availability by virtue of this subsection does not require the disposal of any property or rights.
- (11) The powers conferred by this section on a building society, if available to it, must, in order to be exercisable, be adopted by the society and must be adopted in their entirety without any restriction except a restriction with reference to the description of body corporate in relation to which the powers to invest in or support are to be exercisable.
- (12) A building society whose board of directors has passed a resolution in pursuance of subsection (9) above shall send three copies of a record of the resolution signed by the secretary of the society to the central office and paragraph 4(3), (4) and (5) of Schedule 2 to this Act shall apply as it applies to a record of the alteration of a building society's powers.
- (13) Where the board of directors of a building society passes a resolution rescinding a resolution passed in pursuance of subsection (9) above the society shall send three copies of a record of the rescinding resolution signed by the secretary of the society to the central office and paragraph 4(3), (4) and (5) of Schedule 2 to this Act shall apply as it applies to a record of the alteration of a building society's powers, but subject to subsection (14) below.
- (14) No rescinding resolution shall be registered without the consent of the Commission.
- (15) Where, by virtue of this section, property is held by a building society the property shall constitute class 3 assets for the purposes of the requirements of this Part for the structure of commercial assets and accordingly the aggregate value of the property shall count in accordance with section 20 towards the limits applicable to class 3 assets under that section.
- (16) The power to make an order under subsection (2)(c) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (17) In this section—
- " company " means a company within the meaning of the Companies Act 1985 or the Companies (Northern Ireland) Order 1986;
  - " corresponding membership rights ", in relation to a body corporate, means such rights (other than rights arising from the holding of shares) as are attributable to membership of the body;
  - " deposit " and " deposit-taking business " have the same meaning as in the Banking Act 1979 ;
  - " industrial and provident society " means a society registered under the Industrial and Provident Societies Act 1965 or, in Northern Ireland, the Industrial and Provident Societies Act (Northern Ireland) 1969 ;
  - " property " includes rights of any description;

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and in this Act " associated body ", in relation to a building society, means a body as respects which any of the following conditions is satisfied, that is to say—

- (i) the body is one in which the society holds shares or corresponding membership rights, or
- (ii) the body is one to which the society is linked by resolution, or
- (iii) the body is one in which, by virtue of subsection (8)(b) above, shares or corresponding membership rights are held by a body which falls within or above ; and " associated " shall be construed accordingly.